

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #16	CCRB Case #: 201608679	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 10/10/2016 5:26 PM	Location of Incident: East 167th Street and Fox Street; 42nd Precinct stationhouse	Precinct: 41	18 Mo. SOL 4/10/2018	EO SOL 4/10/2018	
Date/Time CV Reported Mon, 10/10/2016 7:45 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 10/14/2016 11:34 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Charles Buglione	354	955771	042 PCT
2. POM Mike Morales	15119	956188	042 PCT
3. SGT Elliot Zinstein	5494	947634	042 PCT
4. An officer			042 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Omar Tejada	11809	956296	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Mike Morales	Abuse: At the intersection of East 167th Steet and Fox Street in the Bronx, Police Officer Mike Morales stopped § 87(2)(b) and § 87(2)(b)	
B.POM Mike Morales	Abuse: At the intersection of East 167th Street and Fox Street in the Bronx, Police Officer Mike Morales searched § 87(2)(b)	
C.POM Charles Buglione	Force: At the intersection of East 167th Street and Fox Street in the Bronx, Police Officer Charles Buglione used a chokehold against § 87(2)(b)	
D.POM Mike Morales	Force: At the 42nd Precinct stationhouse, Police Officer Mike Morales used physical force against § 87(2)(b)	
E.POM Charles Buglione	Force: At the 42nd Precinct stationhouse, Police Officer Charles Buglione used physical force against § 87(2)(b)	
F.POM Mike Morales	Force: At the 42nd Precinct stationhouse, Police Officer Mike Morales hit § 87(2)(b) against walls.	
G.POM Charles Buglione	Force: At the 42nd Precinct stationhouse, Police Officer Charles Buglione hit § 87(2)(b) against walls.	
H. An officer	Discourtesy: At the 42nd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b) and § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
I.SGT Elliot Zinstein	Abuse: At the 42nd Precinct stationhouse, Sergeant Elliot Zinstein threatened § 87(2)(b) with the use of force.	
J.POM Charles Buglione	Force: At the 42nd Precinct stationhouse, Police Officer Charles Buglione used physical force against § 87(2)(b).	

Case Summary

On October 10, 2016, Sgt. Stephanie Troutman of the 42nd Precinct reported this complaint to IAB via telephone on behalf of an injured prisoner, § 87(2)(b). On October 14, 2016, the complaint was forwarded to the CCRB via IAB log #2016-36228.

At approximately 5:26 p.m. on October 10, 2016, § 87(2)(b) and his friend § 87(2)(b) were stopped by PO Mike Morales and PO Charles Buglione of the 42nd Precinct near the intersection of East 167th Street and Fox Street in the Bronx (**Allegation A**). PO Morales then searched § 87(2)(b) by reaching into his pocket (**Allegation B**). PO Morales recovered a large plastic bag containing more than a hundred smaller bags which contained heroin. Both § 87(2)(b) and § 87(2)(b) were placed under arrest for § 87(2)(b). While § 87(2)(b) was arrested without incident, PO Buglione wrapped his arm around § 87(2)(b) neck to place him in a chokehold (**Allegation C**) before he was handcuffed.

§ 87(2)(b) and § 87(2)(b) were both transported to the 42nd Precinct stationhouse in separate vehicles. § 87(2)(b) traveled with PO Morales and PO Buglione. When they arrived at the stationhouse, PO Morales punched § 87(2)(b) in the face while he was still seated in the rear of their vehicle. PO Morales then pulled § 87(2)(b) out of the vehicle, causing him to fall to the ground. PO Morales then punched § 87(2)(b) several more times on the back (**Allegation D**). PO Buglione also pinned § 87(2)(b)'s leg to the ground by stepping on the back of his knee (**Allegation E**). The two officers lifted § 87(2)(b) up by his arms and legs and carried him into the stationhouse. On the way inside, the officers deliberately rammed § 87(2)(b)'s head against a door (**Allegations F and G**).

§ 87(2)(b) was moved into the holding cell area. § 87(2)(b) had already been lodged in the holding cell, along with three other prisoners: § 87(2)(b) and § 87(2)(b). Either PO Morales or PO Buglione told these prisoners, "Everybody fucking turn around" (**Allegation H**). § 87(2)(b) started arguing with the officers about whether his handcuffs would be removed. Sgt. Elliot Zinstein, the 42nd Precinct desk officer, entered the holding cell area, pointed a taser at § 87(2)(b) and told him to "relax" (**Allegation I**). PO Buglione additionally alleged that § 87(2)(b) tried to strike him during this time. PO Buglione responded by punching § 87(2)(b) once in the face (**Allegation J**). § 87(2)(b) later spat on PO Omar Tejada of the 42nd Precinct as well.

§ 87(2)(b) was subsequently lodged in a holding cell. § 87(2)(b) was later transported to § 87(2)(b) for injuries sustained during the incident. PO Buglione and PO Tejada were also hospitalized as a result of the incident.

No video footage was found for this case.

Mediation, Civil and Criminal Histories

- This case is ineligible for mediation due to § 87(2)(b)'s and § 87(2)(b)'s arrests.
- As of January 6, 2017, neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim with the NYC Comptroller's Office with regards to this incident (See Board Review #01: Notice of Claim).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]
[REDACTED]
- No court records could be located for § 87(2)(b) [REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]
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[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by or involving § 87(2)(b) [REDACTED]
[REDACTED] or § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
- PO Buglione has been a member of the service for two years, and there are no substantiated CCRB allegations against him. PO Buglione has been the subject of 21 allegations in five cases. One previous force allegation against him was closed as unsubstantiated.
- PO Morales has been a member of the service for two years, and there are no substantiated CCRB allegations against him. PO Morales has been the subject of two allegations in two cases. One previous force allegation against him was closed as complaint withdrawn.
- Sgt. Zinstein has been a member of the service for eight years, and there are no substantiated CCRB allegations against him. Sgt. Zinstein has been the subject of four

CCRB allegations in three cases. This is the first threat of force allegation made against him.

Attempts to Contact Civilians

- § 87(2)(b) identified the individual that he was stopped alongside, as well as the prisoners lodged in the holding cells, as victims of allegations. He did not know any of these individuals' names or contact information. § 87(2)(b) was identified via his arrest report, while the other prisoners were identified via the prisoner holding pen roster (See Board Review #05: Holding Pen Roster).
- A January 4, 2016 search of the NYC Department of Correction's online inmate database showed that neither § 87(2)(b) nor § 87(2)(b) is currently incarcerated.
- § 87(2)(b) address was listed on his arrest report. No telephone number was listed. Searches of the CTS, Lexis Nexis and CLEAR databases returned no additional contact information for § 87(2)(b). Please-call letters were sent to § 87(2)(b) on October 26, 2016, November 2, 2016, and November 9, 2016. All letters were returned to the CCRB by the US Postal Service, marked as "no such number."
- § 87(2)(b)'s address was listed on his arrest report. No telephone number was listed. Searches of the CTS, BADS, Lexis Nexis and CLEAR databases returned no additional contact information for § 87(2)(b). Please-call letters were sent to § 87(2)(b) on October 26, 2016, November 2, 2016 and November 9, 2016. On November 9, 2016, § 87(2)(b) called after receiving the please-call letters. He provided a telephone number and scheduled an interview for November 14, 2016. § 87(2)(b) did not appear for this interview, and did not call ahead to cancel or reschedule. Between November 14, 2016 and November 28, 2016, five calls were made to § 87(2)(b)'s telephone number. Messages were left on each call. During the last call, § 87(2)(b) was warned that no further contact attempts would be made to him. To date, § 87(2)(b) has not responded to these contact attempts.
- § 87(2)(b)'s arrest report for his arrest on October 10, 2016 was sealed. No results were found for him in the CTS database. A review of § 87(2)(b)'s previous arrests returned one prior address. Lexis Nexis and CLEAR searches returned an additional address and four telephone numbers. Between November 2, 2016 and November 14, 2016, five telephone calls were made to each of § 87(2)(b)'s numbers. They were all found to be out of service during this time. Please-call letters were mailed to both of § 87(2)(b)'s addresses on October 26, 2016, November 2, 2016, and November 9, 2016. The letters sent to one of his address were returned to the CCRB by the US Postal Service, marked "Not deliverable as addressed." The letters sent to the other address have not been returned. To date, § 87(2)(b) has not responded to these contact attempts.
- No arrest records were found for § 87(2)(b). Searches of the CTS, Lexis Nexis and CLEAR databases returned numerous results for more than a dozen individuals. Absent further information, the investigation was unable to narrow these results down.

Findings and Recommendations

Allegations Not Pleaded

Force – Breathing Restricted: While § 87(2)(b) alleged that an officer placed an arm around § 87(2)(b) neck during his arrest, he did not know whether § 87(2)(b) breathing was restricted in any way. § 87(2)(b) did not provide a statement regarding the incident, including whether or not he had his breathing restricted. § 87(2)(g)

Explanation of Subject Officer Identification

- It is undisputed that PO Morales and PO Buglione stopped § 87(2)(b) and § 87(2)(b). It is also undisputed that PO Morales searched § 87(2)(b). Both PO Morales and PO Buglione stated that the stop and search were initiated by PO Morales after he observed § 87(2)(b) and § 87(2)(b) engage in a hand-to-hand drug transaction. Both officers also stated that PO Morales initiated the stop before he notified PO Buglione of his observation, and that PO Buglione did not know at the time why they were stopping § 87(2)(b) and § 87(2)(b). § 87(2)(g)
- § 87(2)(b) alleged that the officer who searched his pockets was also the same officer who removed him from their vehicle and punched him outside of the 42nd Precinct stationhouse. He identified this officer as the driver of the officers' marked vehicle, and stated that he was about six inches shorter than the other officer. While PO Buglione is three inches shorter than PO Morales and was driving their vehicle at the time, both officers identified PO Morales as the officer who searched § 87(2)(b) and escorted him out of their vehicle at the stationhouse. § 87(2)(g)
- § 87(2)(b) also alleged that this officer's partner placed § 87(2)(b) in a chokehold and stepped on his knee while he was lying on the ground outside of the stationhouse. § 87(2)(g)
- § 87(2)(b) alleged that one of the two officers who arrested him told the prisoners in the holding cells, "everybody fucking turn around." § 87(2)(b) did not see which of the two officers made this statement to the other prisoners. None of the prisoners provided statements to the CCRB regarding the incident. All of the officers interviewed denied using profanity or hearing any other officers use profanity. Absent additional testimony or documentation, the investigation was unable to determine which officers was alleged to have used profanity. § 87(2)(g)
- § 87(2)(b) alleged that while he was in the holding cell area, a 5'6" tall white male in his thirties who wore glasses pointed a taser at him. § 87(2)(b) believed that this officer outranked the officers who had arrested him, as he seemed to have more insignias and buttons on his uniform. He did not identify any specific insignias that he saw on the officer's uniform. § 87(2)(b) did not believe that this officer was the desk officer, as he

later spoke to a different officer who was stationed behind the front desk when he was removed to the hospital. § 87(2)(b) could not recall what this other officer behind the desk looked like.

Sgt. Zinstein confirmed that he was assigned as the desk officer at the time of the incident. He is a 5'8" white male in his thirties, and wears glasses. As the desk officer, Sgt. Zinstein has access to a taser. He denied any recollection of the incident. Sgt. Zinstein was shown a copy of the 42nd Precinct's command log from the time of § 87(2)(b) s and § 87(2)(b) arrests (See Board Review #06: Command Log). The command log entries were prepared in a distinctive cursive handwriting. Sgt. Zinstein confirmed that the entries at the time of the incident, including entries for § 87(2)(b) s and § 87(2)(b) arrests, were made in his handwriting.

PO Morales, PO Buglione and PO Tejada all denied seeing an officer point a taser at § 87(2)(b). They all denied that they have access to tasers. According to the 42nd Precinct roll call, the only other supervisor who was on duty and would have had access to a taser was Sgt. Troutman (See Board Review #07: Roll Call). Sgt. Troutman, however, is a female.

While Sgt. Zinstein did not recall the incident, he was the only officer who had access to a taser, was present in the stationhouse at the time of the incident, and resembled § 87(2)(b) s description of the subject officer. § 87(2)(g)

Allegation A – Abuse of Authority: At the intersection of East 167th Street and Fox Street in the Bronx, Police Officer Mike Morales stopped § 87(2)(b) and § 87(2)(b)
Allegation B – Abuse of Authority: At the intersection of East 167th Street and Fox Street in the Bronx, Police Officer Mike Morales searched § 87(2)(b) and § 87(2)(b)

It is undisputed that PO Morales stopped § 87(2)(b) and § 87(2)(b) when he walked up to § 87(2)(b) and reached into his pants pocket. He did not speak to either civilian, and did not conduct any sort of investigation before reaching into the pocket. It is also undisputed that at the time of the stop, § 87(2)(b) was carrying a large plastic bag in that same pants pocket. The bag contained a number of smaller plastic bags containing heroin. § 87(2)(b) was carrying over a thousand dollars in cash with him at the time as well. Property vouchers confirmed that § 87(2)(b) was carrying 168 glassine envelopes of heroin with him at the time, as well as \$406 in cash. § 87(2)(b) was carrying two glassine envelopes containing heroin. The vouchers do not indicate if the envelopes had been carried in a Ziploc bag, and do not specify any markings or coloration on the envelopes (See Board Review #08: Property Vouchers).

§ 87(2)(b) was interviewed at the CCRB on October 24, 2016 (See Board Review #09: § 87(2)(b) s Statement). § 87(2)(b) stated that § 87(2)(b) was carrying his cash with him in a black plastic bag that he held in his hands. He explained that § 87(2)(b) was carrying his cash with him in a bag because he is homeless, and has no other place to store his money. § 87(2)(b) stated that he and § 87(2)(b) had been walking for about two blocks together before PO Morales approached them. He denied that he or § 87(2)(b) passed any items to each other

or exchanged anything, including any currency. He denied that he or § 87(2)(b) made any kind of physical contact, including touching or shaking hands. As they walked, PO Morales and PO Buglione pulled up to them in a marked vehicle. PO Morales approached § 87(2)(b) and placed his hands directly into the pocket containing the heroin.

PO Morales was interviewed at the CCRB on December 9, 2016 (See Board Review #10: PO Morales' Statement). At the time of the incident, PO Morales was on patrol with PO Buglione. PO Morales was riding in the front passenger's seat of their vehicle. As they drove by East 167th Street and Fox Street, PO Morales observed § 87(2)(b) and § 87(2)(b) standing on the sidewalk. He did not recall how far away he was from the civilians when he saw them. PO Morales observed § 87(2)(b) reach into one of his pants pockets, remove two small envelopes with red markings on them, and pass them to § 87(2)(b). § 87(2)(b) then handed § 87(2)(b) an unknown amount of cash. PO Morales believed that the two were engaged in a hand-to-hand drug transaction. He identified the envelopes that § 87(2)(b) passed to § 87(2)(b) as drugs based upon the nature of their packaging and the red marks on them. PO Morales stated that he had received SNEU training in recognizing drugs based upon their packaging in early 2016. After observing this transaction, PO Morales told PO Buglione to stop the vehicle. He did not explain to PO Buglione why he wanted to stop. When PO Buglione stopped, he immediately stopped § 87(2)(b) by reaching into the pocket that he had produced the envelopes from. PO Morales explained that he felt that he considered both § 87(2)(b) and § 87(2)(b) to be under arrest from the moment he observed the transaction. He reached into the pocket because he had seen § 87(2)(b) produce the envelopes handed to § 87(2)(b) from that same pocket.

PO Buglione was interviewed at the CCRB on December 9, 2016 (See Board Review #11: PO Buglione's Statement). He stated that as he and PO Morales drove through the intersection, PO Morales told him to stop the car. PO Morales then exited the vehicle and approached § 87(2)(b) and § 87(2)(b). PO Buglione had not made any unusual observations about § 87(2)(b) and § 87(2)(b) and did not know why PO Morales was approaching them. PO Buglione followed PO Morales in order to back up his partner. When PO Morales approached § 87(2)(b) he immediately pulled a bag of heroin out of one of § 87(2)(b)'s pants pockets. PO Buglione later learned that PO Morales stopped the civilians after observing them engage in a hand-to-hand drug transaction.

Various factors, when combined with a street exchange, may give rise to probable cause that a narcotics offense has occurred. These include the exchange of currency, the nature of the packaging of the items exchanged, a high incidence of drug transactions within a community, and the training and experience of the officer who observes the exchange. People v. Lee, 2013 N.Y. App. Div. LEXIS 6427 (App. Term, 4th Dept., 2014) (See Board Review #12: Legal Reference).

§ 87(2)(g)
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§ 87(2)(g)

§ 87(2)(g)

Allegation C – Force: At the intersection of East 167th Street and Fox Street in the Bronx, Police Officer Charles Buglione used a chokehold against § 87(2)(b)

It is undisputed that PO Morales handcuffed § 87(2)(b) after the heroin was recovered from his pocket. PO Morales placed § 87(2)(b) in the rear of their vehicle. The officers then attempted to arrest § 87(2)(b). § 87(2)(b) was not injured during his arrest.

§ 87(2)(b) stated that while he was sitting in the back of the officers' vehicle, he observed PO Morales and PO Buglione grab § 87(2)(b) by the front of his shirt. PO Buglione then placed § 87(2)(b) in a chokehold by wrapping his right arm around § 87(2)(b) neck. PO Morales attempted to pull § 87(2)(b) arms back while PO Buglione held § 87(2)(b) neck. § 87(2)(b) did not know if § 87(2)(b) breathing was obstructed by PO Buglione's action. He did not see if § 87(2)(b) was making any movements at the time. § 87(2)(b) and the officers then went to the ground together, taking them out of § 87(2)(b)'s line of sight. A short time later, § 87(2)(b) and the officers stood back up. § 87(2)(b) was then in handcuffs.

PO Buglione stated that he and PO Buglione attempted to handcuff § 87(2)(b) after § 87(2)(b) was placed in their vehicle. § 87(2)(b) resisted them by pulling his arms away from the two officers, pushing the officers away and kicking his legs out. § 87(2)(b) kicked PO Buglione around his groin area, but did not make contact with PO Morales. At one point, § 87(2)(b) attempted to flee from the officers, but tripped and fell to the ground. The officers did not use any force against § 87(2)(b) beyond trying to pull on his arms. PO Buglione denied that he or any other officer placed an arm around § 87(2)(b) neck, or otherwise made contact with § 87(2)(b) neck. He denied that § 87(2)(b) complained of having any difficulty breathing at any point.

PO Morales also stated that § 87(2)(b) resisted arrest by pulling his arms away and pushing the officers. He also alleged that § 87(2)(b) kicked his legs out, striking PO Buglione in the groin. PO Morales denied that § 87(2)(b) was on the ground at any time. PO Morales also denied that any officer, including PO Buglione, placed an arm around § 87(2)(b) neck or otherwise made contact with § 87(2)(b) neck. He denied that § 87(2)(b) complained of any difficulty breathing during the incident.

Both PO Buglione and PO Morales prepared Threat, Resistance and Injury Reports regarding § 87(2)(b) arrest (See Board Review #13: TRI Reports). PO Buglione's report indicates that § 87(2)(b) wrestled with officers and both pushed and shoved officers in an attempt to injure them. In response, PO Buglione grabbed § 87(2)(b) arms and pulled them behind his back. He did so in order to protect other officers and to overcome § 87(2)(b) resistance. PO Buglione sustained minor swelling and cuts to his right hand.

PO Morales' report indicated that the struggle with § 87(2)(b) occurred at the 42nd Precinct stationhouse. When asked to address this discrepancy, PO Morales reiterated that the struggle occurred at the arrest location, and that he had likely made an error in preparing the form. The report indicated that § 87(2)(b) pushed or shoved an officer, and that another officer suffered a cut to his hand as a result. PO Morales indicated that force was used to overcome § 87(2)(b) resistance, but did not specify the type of force used. PO Morales again stated that the only force used against § 87(2)(b) was to pull his arms behind his back. He explained that he had not specified any of the types of force listed on the report because they did not apply to the force that was actually used.

§ 87(2)(g)

Allegation D – Force: At the 42nd Precinct stationhouse, Police Officer Mike Morales used physical force against § 87(2)(b)

Allegation E – Force: At the 42nd Precinct stationhouse, Police Officer Charles Buglione used physical force against § 87(2)(b)

§ 87(2)(b) alleged that after PO Morales and PO Buglione drove him to the stationhouse, the officers opened the rear door of their vehicle to let § 87(2)(b) out. § 87(2)(b) swung his legs out of the vehicle, preparing to exit. He was in handcuffs at the time. Before he was able to stand, however, PO Morales leaned into the back of the vehicle and punched § 87(2)(b) once on the right side of his forehead. PO Morales then grabbed § 87(2)(b) by the arm and pulled him out of the vehicle. § 87(2)(b) fell to the ground next to the vehicle, landing on his front. PO Buglione stepped on the back of § 87(2)(b)'s knee, pinning his leg down. PO Morales then leaned down and punched § 87(2)(b) three or four times on the right side of his head. § 87(2)(b) denied that he offered any resistance or made any movements at the time. As a result of this force, as well as subsequent force used against him when he was carried into the stationhouse, § 87(2)(b) sustained swelling to the right side of his face and bruising on the knee that PO Buglione stepped on.

PO Morales and PO Buglione denied that either officer struck § 87(2)(b) when they were unloading him from their vehicle. They also denied that § 87(2)(b) was forcibly pulled out of the rear of their vehicle. Both stated that § 87(2)(b) was initially compliant with the officers, and exited the vehicle on his own. When PO Morales told § 87(2)(b) that he would be charged with selling drugs in front of a school zone, though, § 87(2)(b) dropped his weight and fell to

the ground. The officers denied placing § 87(2)(b) on the ground themselves. Both officers denied that they stepped on any part of § 87(2)(b)'s body or took any other actions to keep him on the ground. Both officers stated that § 87(2)(b) started to bleed from somewhere on his head during the incident, but both attributed these injuries to force used at a later point in the incident.

PO Tejada was interviewed at the CCRB on December 16, 2016 (See Board Review #14: PO Tejada's Statement). At the time of the incident, he was assigned to stationhouse security, and was positioned outside of the stationhouse. He denied that any officer struck § 87(2)(b) when he arrived at the stationhouse. While he recalled that PO Morales or PO Buglione pulled § 87(2)(b) out of the vehicle, he did not recall § 87(2)(b) being pulled to the ground or falling down. He denied seeing any officer place a foot on top of § 87(2)(b)'s body at any time. While PO Tejada stated that § 87(2)(b) was bleeding from the mouth during the incident, he attributed this to force used against him later inside of the stationhouse. PO Tejada did not recall § 87(2)(b) having any other injuries at this point in the incident.

After his arrest, § 87(2)(b) was transported by EMS to § 87(2)(b). His medical records indicate that he suffered swelling to the right side of his face and the bridge of his nose. He complained of pain in his head and neck. § 87(2)(b) alleged that he had been injured when a police officer pushed him against a wall during an altercation. An X-ray examination showed that § 87(2)(b) had a past fracture to his mandible that had already been treated. No new fractures were noted. There is no mention of any injuries to his knees or legs (See Board Review #15-16: Medical Records).

§ 87(2)(b)'s arrest photograph shows a large abrasion on the right side of his forehead (See Board Review #17: Arrest Photograph). § 87(2)(b) also provided several photographs of his leg that were allegedly taken by his girlfriend on October 11, 2016, after he was released from custody. Two of these photographs show bruising to the back of one of § 87(2)(b)'s knee (See Board Review #18-19: § 87(2)(b)'s Photograph).

§ 87(2)(g)
The injury to § 87(2)(b)'s head is documented in his medical records, indicating that § 87(2)(b) did suffer trauma to his head at some point during the incident. § 87(2)(g)
§ 87(2)(g)
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§ 87(2)(g)

The photographs of § 87(2)(b)'s knee indicate that he suffered trauma there at some point.
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation F – Force: At the 42nd Precinct stationhouse, Police Officer Mike Morales hit § 87(2)(b) against walls.

Allegation G – Force: At the 42nd Precinct stationhouse, Police Officer Charles Buglione hit § 87(2)(b) against walls.

§ 87(2)(b) alleged that after he was brought to the ground outside of the stationhouse, PO Bulione and PO Morales lifted him off the ground. PO Morales lifted him up by his handcuffs, while PO Buglione lifted his legs. The two officers then carried him towards the stationhouse's front doors. The two officers then swung § 87(2)(b)'s body forward in a manner that he likened to a battering ram. § 87(2)(b)'s head struck into the door, pushing it open. The two officers then carried him into the stationhouse and moved him directly to the prisoner holding pen. As they carried § 87(2)(b) to the holding pen area, the officers struck § 87(2)(b)'s head three or four more times against the walls. § 87(2)(b) suffered bruising and swelling to the right side of his face as a result of this action, as well as PO Morales' earlier punches.

PO Buglione and PO Morales both stated that after § 87(2)(b) exited their vehicle, he refused to walk on his own, and dropped his weight. As a result, the two officers held § 87(2)(b) up by his arms and walked him towards the stationhouse entrance. The officers denied that they had to physically lift § 87(2)(b) from the ground, and denied carrying him outside of the stationhouse. Both officers stated that there are two sets of doors at the stationhouse entrance. When § 87(2)(b) reached the first set of doors, he attempted to throw his body against the door. The officers prevented him from doing so by pulling back on his arms. As a result, § 87(2)(b) did not make contact with the exterior doors. When they moved to the second set of doors, § 87(2)(b) threw himself again at the doors. The officers were unable to pull him back this time to prevent him from hitting the door. While PO Morales did not recall which part of § 87(2)(b)'s body hit the door, PO Buglione stated that § 87(2)(b)'s face hit the door. Both officers stated that § 87(2)(b) was then taken to the front desk to be presented before the desk officer. § 87(2)(b) however, again dropped his weight and refused to stand up. As a result, the officers escorted him to the holding cell. While PO Buglione stated that he and PO Morales walked § 87(2)(b) to the holding cells while holding him up by his arms, PO Morales stated that he, PO Buglione and PO Tejada had to physically lift § 87(2)(b) off of the ground and carry him from the desk to the holding cells. Both officers denied that any officer deliberately pushed or struck § 87(2)(b) against any doors or other flat surfaces at the stationhouse. They denied swinging § 87(2)(b) like a battering ram at any point. Both officers stated that § 87(2)(b) started to bleed from somewhere on his head during the incident, but they did not know if this injury resulted from § 87(2)(b) striking himself on the door, or from force used against him later in the incident.

PO Tejada denied that § 87(2)(b) was carried at any time outside of the stationhouse. He stated that PO Buglione and PO Morales walked § 87(2)(b) to the front doors while holding his arms. § 87(2)(b) attempted to push away from the officers several times, but the officers maintained their grip on him. PO Tejada was not aware of how the stationhouse's front doors were opened when § 87(2)(b) was brought inside. He did not recall § 87(2)(b) making physical contact with either set of doors. He denied seeing the officers swing § 87(2)(b)'s body at the front doors like a battering ram. He was not aware of either officers pushing or slamming § 87(2)(b) against any doors or surfaces, and was not aware of § 87(2)(b) throwing himself against any surfaces. After § 87(2)(b) cleared the doors, PO Tejada followed him inside. § 87(2)(b) was taken before the front desk, but was then moved to the holding cells when he refused to stand up at the desk. PO Tejada helped carry § 87(2)(b) bodily to the holding cells. He did not recall what part of § 87(2)(b)'s body he held.

Sgt. Zinstein was interviewed at the CCRB on December 15, 2016 (See Board Review #20: Sgt. Zinstein's Statement). Sgt. Zinstein had no recollection of the incident. He confirmed that he was the desk officer at the time of the incident. When he reviewed the command log entries made for § 87(2)(b) and § 87(2)(b) (See Board Review: Command Log), he confirmed that they were made in his hand writing, but denied any specific recollection of those particular prisoners. Sgt. Zinstein did not recall any officers carrying any individuals into the stationhouse, or striking any individual's head or body against any doors or other flat surfaces.

As mentioned earlier, § 87(2)(b)'s medical records indicate that he suffered swelling to the right side of his face and the bridge of his nose. He complained of pain in his head and neck. § 87(2)(b) alleged that he had been injured when a police officer pushed him against a wall during an altercation (See Board Review #15-16: Medical Records). § 87(2)(b)'s arrest photograph shows a large abrasion on the right side of his forehead (See Board Review #17: Arrest Photograph).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

Allegation H – Discourtesy: At the 42nd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) alleged that when PO Buglione and PO Morales escorted him into the holding cell area, there were several other prisoners already in the holding cell. The investigation identified them as § 87(2)(b) and § 87(2)(b). Either PO Buglione or PO Morales told these prisoners, “Everybody fucking turn around.” § 87(2)(b) could not tell which of the two officers made this remark. None of the other prisoners provided statements regarding the incident. All of the officers interviewed denied that they or any other officer used profanity during the incident.

§ 87(2)(g)

Allegation I – Abuse of Authority: At the 42nd Precinct stationhouse, Sergeant Elliot Zinstein threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that after he was brought into the holding cell area, he told PO Buglione to remove his handcuffs. Given PO Buglione’s aggressive behavior at the stationhouse, § 87(2)(b) assumed that PO Buglione was going to hit him again in the holding cell area. § 87(2)(b) asked for his handcuffs to be removed because he thought that it would be unfair for PO Buglione to hit him when he was unable to defend himself. § 87(2)(b) denied threatening PO Buglione at that time. PO Buglione refused to remove § 87(2)(b)’s handcuffs. After § 87(2)(b) asked PO Buglione to remove them several more times, Sgt. Zinstein entered the holding cell area. He drew a taser, pointed it at § 87(2)(b)’s chest, and told him, “Relax.” § 87(2)(b) backed down and allowed the officers to move him into a holding cell without incident. Sgt. Zinstein did not use the taser on § 87(2)(b). § 87(2)(b)’s handcuffs were kept on for the entirety of his time at the stationhouse.

While Sgt. Zinstein confirmed that he was working as the desk officer at the time of the incident, he had no recollection of the incident. He did not recognize a photograph of § 87(2)(b) and had no recollection of his arrest.

Neither PO Buglione, PO Morales nor PO Tejada recalled Sgt. Zinstein entering the holding cell area at any time. They did not recall any other officers besides themselves being present inside of the holding cell area. They did not recall any officers drawing or pointing a taser at § 87(2)(b) or threatening to use a taser on § 87(2)(b). Furthermore, all three stated that § 87(2)(b) was released from his handcuffs before he was lodged in his holding cell.

§ 87(2)(g)

Allegation J – Force: At the 42nd Precinct stationhouse, Police Officer Charles Buglione used physical force against § 87(2)(b)

As mentioned above, § 87(2)(b) alleged that officers refused to remove his handcuffs while in the holding cell area. He denied threatening any of the officers at any time. § 87(2)(b) made no mention of any force being used against him while inside of the holding cells.

PO Buglione alleged that § 87(2)(b)'s handcuffs were in fact removed as he was lodged in the holding cells. As PO Buglione removed the handcuffs, § 87(2)(b) told him, "You're nothing without your shield." PO Buglione initially ignored this remark. Once the handcuffs were removed, § 87(2)(b) raised both of his fists to his chest, assuming what PO Buglione described as a fighting stance. § 87(2)(b) swung his fist at PO Buglione's head, but missed. PO Buglione, in response, punched § 87(2)(b) once in the face with his right hand. The blow caused § 87(2)(b) to fall onto his back. PO Buglione immediately fled the holding cell area. As he moved away from § 87(2)(b) PO Tejada and PO Morales moved in to restrain him. PO Buglione did not see what actions § 87(2)(b) and the other officers took towards each other. He later learned that § 87(2)(b) spat on PO Tejada, leading to PO Tejada's hospitalization. PO Buglione suffered swelling to his right fist after hitting § 87(2)(b). PO Buglione noted that § 87(2)(b) was bleeding from somewhere on his face after the punch. He did not know if this injury resulted from § 87(2)(b) throwing himself against the door earlier, or from his punch.

PO Morales' and PO Tejada's accounts of this action are generally consistent with PO Buglione's. Neither recalled § 87(2)(b) making any statements before trying to hit PO Buglione, but PO Morales recalled that § 87(2)(b) was shouting. Neither made any mention of § 87(2)(b) falling to the ground after he was struck. After PO Buglione struck § 87(2)(b) PO Morales and PO Tejada held him in a corner. § 87(2)(b) spat on both officers, striking PO Tejada in the face and PO Morales on the arm. PO Tejada was treated for exposure afterwards, and went on line-of-duty leave for several days afterwards. These officers also recalled § 87(2)(b) bleeding from his face after PO Buglione's punch, but did not know if the injury resulted from the punch itself. Sgt. Zinstein had no recollection of any struggles at the stationhouse involving any prisoners.

PO Buglione and PO Tejada prepared Threat, Resistance and Injury Reports regarding § 87(2)(b)'s arrest (See Board Review #13: TRI Reports). PO Buglione indicated that § 87(2)(b) resisted officers by attempting to strike them and wrestle with them. This caused a cut to an officer's hand. PO Buglione responded by striking the prisoner with his hand. This in turn caused the prisoner to complain of pain. PO Tejada's report indicated that § 87(2)(b) spat blood on his face. PO Tejada did not use any force against § 87(2)(b) himself in response.

As mentioned earlier, § 87(2)(b)'s medical records indicate that he suffered swelling to the right side of his face and the bridge of his nose. He complained of pain in his head and neck. § 87(2)(b) alleged that he had been injured when a police officer pushed him against a wall during an altercation (See Board Review #15-16: Medical Records). § 87(2)(b)'s arrest photograph shows a large abrasion on the right side of his forehead (See Board Review #17: Arrest Photograph).

A Line-of-Duty Injury Report prepared for PO Buglione indicates that he sustained lacerations and swelling to his right hand after striking an uncuffed prisoner in the face with a closed fist. The prisoner had threatened PO Buglione by raising a closed fist to him (See Board Review #21: Line of Duty Injury Report). PO Tejada's Line-of-Duty Injury Report has not yet been obtained. His memo book, however, indicates that he was on line-of-duty injury leave from October 11, 2016 until at least October 26, 2016 (See Board Review #22: PO Tejada's Memo Book).

Captain Johnny Orellana of the 50th Precinct prepared an Investigating Supervisor's Assessment Report regarding the incident (See Board Review #23: Investigating Supervisor's Assessment Report). The narrative of his report is generally consistent with the officers' account of PO Buglione's use of force. The report also states that Captain Orellana spoke to § 87(2)(b) and § 87(2)(b) regarding the incident. It states that § 87(2)(b) denied seeing any force used against § 87(2)(b). Neither § 87(2)(b) nor § 87(2)(b) provided a statement to Captain Orellana regarding § 87(2)(b). Captain Orellana also interviewed PO Morales, § 87(2)(g).

NYPD Patrol Guide procedure 221-01 states that officers may use a reasonable amount of force that is necessary to gain control or custody of a subject (See Board Review #24: Legal Reference).

§ 87(2)(g)
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Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date